

October 15, 2004

Mary Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

RE: Boston Gas Company, d/b/a KeySpan Energy Delivery New England, D.T.E. 04-88

Dear Secretary Cottrell:

On September 16, 2004, the Boston Gas Company, d/b/a KeySpan Energy Delivery New England ("Company" or "KeySpan") filed its first annual price cap rate adjustment pursuant to the performance based rate making plan ("PBR") approved by the Department of Telecommunications and Energy ("Department") in the Company's last rate case in D.T.E. 03-40. On October 7, 2004, the Department issued a Notice of Filing and Request for Comments ("Notice") for October 15, 2004. According to the Notice, the Company seeks approval of a revenue increase of \$4,573,860, or a base revenue increase of 1.47 percent. The Attorney General submits this letter as his comments.

The Company's proposal raises several issues that require further investigation, including, but not limited to, the following topics. First, since this filing represents the Company's first adjustment under a new PBR formula and generally increases rates under G. L. c. 164, §94, the Department should subject it to a thorough review. Second, in D.T.E. 03-40, the Department directed the Company to commence reconciling its pension adjustment in conjunction with its annual PBR filing, and flow the impact of any changes through its Local Distribution Adjustment Factor ("LDAC"). *Boston Gas Company d/b/a KeySpan Energy Delivery New England*, D.T.E. 03-40, pp. 313-314 (2003). Accordingly, the Department should investigate the pension adjustment calculations in this proceeding in conjunction with the review of the PBR filing. *See generally Berkshire Gas Company*, D.T.E. 04-52 (2004) (the Department conducts a compliance analysis when a utility submits a PBR adjustment). Third, KeySpan has not discussed whether customers are entitled to any exogenous factor rate reductions, including, but not limited to, Financial Accounting Standard ("FAS")106 expense

reductions under the Medicare Act of 2003.¹ The Company controls the financial information necessary to evaluate the reasons for changes in its costs during the PBR plan, and should submit a report with its annual adjustment filing on its evaluation of potential exogenous factors as a prudent business practice. *Boston Gas Company d/b/a KeySpan Energy Delivery New England*, D.T.E. 03-40, pp. 507-508 (Company must submit “documentation of exogenous factors” in the compliance filing); *Town of Hingham v. Department of Telecommunications & Energy*, 433 Mass.198, 202 (2001) (costs must be prudently incurred to be recovered from customers). Otherwise, it would be difficult, if not impossible, for the Department to determine the magnitude of these cost changes during the course of the ten year rate plan.

The Department should open discovery, conduct an evidentiary hearing, and allow briefing before approving the Company’s filing.

Sincerely,

Alexander J. Cochis
Assistant Attorney General

cc: Service list

¹ It is possible that the Company has fully accounted for the impact of the reduction in FAS 106 expense in its pension adjustment filing. Since the Company submitted the pension adjustment without adequate documentation in its LDAC filing, however, the Department has not had the opportunity to explore this issue or others.